

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

|                            |   |                                    |
|----------------------------|---|------------------------------------|
| ROBERT E. MARTIN,          | ) |                                    |
|                            | ) |                                    |
| Plaintiff,                 | ) |                                    |
|                            | ) | Civil Action No. 08 - 1604         |
| vs.                        | ) |                                    |
|                            | ) | Magistrate Judge Lisa Pupo Lenihan |
|                            | ) |                                    |
| THE COMMONWEALTH OF PA     | ) |                                    |
| DEPARTMENT OF CORRECTIONS; | ) |                                    |
| et al.,                    | ) |                                    |
|                            | ) |                                    |
|                            | ) |                                    |
| Defendants.                | ) |                                    |

MEMORANDUM OPINION AND ORDER

Pending before the Court is Plaintiff's Motion for Emergency Injunction (doc. no. 15). Plaintiff's Complaint alleges that his constitutional rights were violated by a failure to treat a serious medical condition. In his Motion, Plaintiff asks the Court to order the Pennsylvania Department of Corrections (DOC) to release him on parole to his home rather than to a community center. Plaintiff is not entitled to injunctive relief for two reasons.

First, Plaintiff's motion for injunctive relief concerns events that are unrelated to the subject of his complaint. A preliminary injunction is not an appropriate vehicle for trying to obtain relief that is not sought in the underlying action. *See, e.g., Devose v. Herrington*, 42 F.3d 470, 471 (8<sup>th</sup> Cir. 1994) ("Devose's motion is based on new assertions of mistreatment that are entirely different from the claim raised and the relief requested in his inadequate medical treatment lawsuit. Although these new assertions might support additional claims against the same prison officials, they cannot provide the basis for a

preliminary injunction in this lawsuit.”); Spencer v. Stapler, 2006 WL 2052704, \*9 (D. Ariz. July 21, 2006); Williams v. Platt, 2006 WL 149024, \*2 (W. D. Okla. Jan. 18, 2006) holding that a preliminary injunction is inappropriate to address wrongs wholly unrelated to the complaint); Westbank Yellow Pages v. BRI, Inc., 1996 WL 255912, \*1, (E. D. La. May 13, 1996).

Second, changed circumstances in the form of the plaintiff’s release on parole from DOC custody have forestalled any occasion for any meaningful injunctive relief. Consequently, Plaintiff’s request to order Defendants to release him on parole is academic and his claim for injunctive relief is moot. See Fortes v. Harding, 19 F. Supp. 2d 323, 326 (M.D. Pa. 1998) (holding that inmate’s transfer mooted his claims for injunctive and declaratory relief). An appropriate order follows.

**AND NOW**, this 9th day of April, 2009:

**IT IS HEREBY ORDERED** that Plaintiff’s Motion for Emergency Injunction (doc. no. 15) is **DENIED**.

A handwritten signature in black ink, appearing to read 'Lisa Pupo Lenihan', written over a horizontal line.

Lisa Pupo Lenihan  
United States Magistrate Judge

**ROBERT E. MARTIN, JR.**  
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